

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:

KEITH EDWARD BURKE and
SUSAN BURKE,

Debtor(s).

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BANKRUPTCY NO. 05-60081 JPK
Chapter 13

ORDER REGARDING NOTICE OF DEFAULT

On February 17, 2006, Drive Financial Services, by counsel, filed a Notice of Default, seeking to implement the provisions of an agreed order entered into between that creditor and the debtors as approved by the Court on October 7, 2005. The debtor filed a response on February 27, 2006, stating that the default addressed by the Notice had been cured.

The Court notes that the procedure utilized by the creditor does not comply with the terms of the Court's order: the order, which was an agreed order negotiated between the debtors and the creditor, provides that the creditor shall give the debtors 10 days' notice of the default in advance of filing an affidavit with the Court, and the Notice of Default filed by the creditor on February 17, 2006 does not evidence that any notice was given to the debtors prior to its filing. If the Notice of Default had evidenced at least 10 days' notice to the debtors of default prior to the filing of that document, relief from the stay would have been self-implementing, without any further order of the Court being necessary.

IT IS ORDERED that the Court will take no action with respect to the Notice of Default, and that the automatic stay of 11 U.S.C. §362(a) remains in effect with respect to Drive Financial Services.

Dated at Hammond, Indiana on March 14, 2006.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtors, Attorney for Debtors
Trustee, U.S. Trustee
Attorney for Creditor